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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/055,538	01/23/2002	Curtis G. Wong	MS188917.1	8836
7590 Himanshu S. Amin Amin & Turocy, LLP National City Center, 24th Floor 1900 East Ninth Street Cleveland, OH 44114			EXAMINER SAX, STEVEN PAUL	
			ART UNIT 2174	PAPER NUMBER
			MAIL DATE 12/09/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/055,538

**Applicant(s)**

WONG ET AL.

**Examiner**

Steven P. Sax

**Art Unit**

2174

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 9/10/08.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 54-102 is/are pending in the application.
- 4a) Of the above claim(s) 86-102 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 54-85 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SE/US)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

1. This application has been examined.
2. The election to claims 54-85, filed 9/10/08, has been entered.
3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. 54-68, 70-85 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential steps, such omission amounting to a gap between the elements. See MPEP § 2172.01. The omitted steps are: technique of how the mood, emotional reaction, or facial expression is monitored. This is essential to understanding the claim and scope of claimed subject matter. It also follows that the claims lack how such mood, emotional reaction, or facial expression constitutes the passive feedback and in what tangible aspect it is used.

The claims are thus also indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. They are vague and indefinite.

5. Claim 69 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 69 recites the limitation "the at least one

of...item recognition" in line 1. There is insufficient antecedent basis for this limitation in the claim.

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 69 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jain et al (6567980) and Morris (2002/0088000).

8. Regarding claim 69, Jain et al show: A system that monitors reaction to a media scene, comprising: a scene retriever that retrieves a scene from a media store; a viewer that displays the scene; and a feedback receiver that monitors passive feedback in response to the scene displayed by the viewer (column 2 lines 1-23), the passive feedback is at least one of mood, emotional reaction, or facial expression in that at least one of the face recognition, item recognition, voice recognition, color recognition, mood recognition and theme recognition is adapted by a machine learning technique based at least in part on the input from the user (Figure 2, column 7 lines 1-35 and Table 1); a scene selector that scans a digitized media and selects a scene in the digitized media (column 4 lines 20-35, Figure 3).

Jain et al do not go into the details of a metadata generator that produces metadata associated with the selected scene and relates the metadata to the selected scene, or an organizer that places the selected scene and the metadata in a media store to facilitate non-linear viewing of one or more scenes; but do mention the scene selector selects a scene based at least in part on the passive feedback or based on an input from a user (regardless of how the feedback in part helps select the scene, since this is claimed in alternative language, the user input suffices to fulfill the recitation). Furthermore, Morris does show this (Figure 2, para 20) for efficient scene selection. It would have been obvious to a person with ordinary skill in the art to have this in Jain et al, because it would allow efficient scene selection.

9. Please contact Examiner at 571-272-4072 at earliest convenience to discuss claim remedy and interpretation.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven P. Sax whose telephone number is (571) 272-4072. The examiner can normally be reached on Monday thru Friday, 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen Hong can be reached on (571) 272-4124. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Steven P Sax/  
Primary Examiner, Art Unit 2174

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